

SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 1004 be amended to read as follows:

- 1 Page 102, between lines 8 and 9, begin a new paragraph and insert:
- 2 "SECTION 101. IC 7.1-7 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2002]:
- 5 **ARTICLE 7. ELECTRONIC GAMING IN**
- 6 **ESTABLISHMENTS LICENSED TO SELL ALCOHOLIC**
- 7 **BEVERAGES**
- 8 **Chapter 1. Definitions**
- 9 **Sec. 1. The definitions in this chapter apply throughout this**
- 10 **article.**
- 11 **Sec. 2. "Adjusted gross receipts" means :**
- 12 **(1) the total of all cash and property (including checks**
- 13 **received by a licensee) whether collected or not, received by**
- 14 **a licensee from gaming operations; minus**
- 15 **(2) the total of:**
- 16 **(A) all cash paid out as winnings to patrons; and**
- 17 **(B) uncollectible gaming receivables, not to exceed the**
- 18 **lesser of:**
- 19 **(i) a reasonable provision for uncollectible patron checks**
- 20 **received from gaming operations; or**
- 21 **(ii) two percent (2%) of the total of all sums, including**
- 22 **checks, whether collected or not, less the amount paid**
- 23 **out as winnings to patrons.**
- 24 **For purposes of this section, a counter or personal check that is**
- 25 **invalid or unenforceable under this article is considered cash**
- 26 **received by the licensee from gaming operations.**
- 27 **Sec. 3. "Commission" refers to the alcohol and tobacco**
- 28 **commission established by IC 7.1-2-1-1.**
- 29 **Sec. 4. "Electronic gaming device" means an electromechanical**
- 30 **device, an electrical device, or a machine that:**
- 31 **(1) upon payment of consideration is available to play or**
- 32 **operate;**

- (2) makes payoffs in any manner, including delivery of premiums, merchandise, tokens, redeemable game credits, or anything of value to the person playing the game; and
(3) is approved by the commission under this article.

Sec. 5. "Establishment" means a licensed premises that is licensed to sell alcoholic beverages under IC 7.1-3.

Sec. 6. "Gambling operations" means the operation of electronic gaming devices in establishments licensed under this article.

Sec. 7. "Licensee" means a person that holds:

- (1) a supplier's license; or
(2) an establishment license;

issued under IC 7.1-7-2.

Sec. 8. "Person" has the meaning set forth in IC 7.1-1-3-31.

Sec. 9. "Supplier" means an individual or a business entity that is licensed under this article to:

- (1) distribute, sell, or lease electronic gaming devices or associated equipment in Indiana; or
(2) own electronic gaming devices and physically place the devices for public gaming operations at an establishment in Indiana.

Chapter 2. Licensing

Sec. 1. The commission does not have authority to regulate gaming devices that are operated on riverboats (as defined in IC 4-33-2-17).

Sec. 2. The commission may issue supplier and establishment licenses to applicants that satisfy the requirements of this article.

Sec. 3. (a) An applicant seeking to obtain a license under this article must submit the fee required by the commission and apply to the commission in the manner required by the commission. The application must include at least the following:

- (1) The name and address of the applicant and of any person holding at least a one percent (1%) interest in the applicant.
(2) The applicant's consent to credit investigations and criminal record searches.
(3) Waivers and releases signed by the applicant that the commission believes are necessary to ensure a full and complete review of the application.

(b) An applicant shall furnish all information requested by the commission, including financial data and documents, certifications, consents, waivers, and individual histories.

Sec. 4. Criminal history record information obtained during the investigation of an individual must be maintained by the commission for the term of the license and for any subsequent license term.

Sec. 5. The commission shall conduct or cause to be conducted a background investigation of each applicant for licensure.

Sec. 6. The commission may require that an application or other document submitted by an applicant or a licensee must be sworn to or affirmed before a notary public.

Sec. 7. (a) The commission shall notify an applicant who is denied a license of the specific reasons for denial. The notification must be:

- (1) in writing; and
- (2) sent by certified mail.

(b) The applicant has forty-five (45) calendar days after the date the written notice is received by the applicant under subsection (a) to request a hearing on the denial of the license.

Sec. 8. The commission may not issue a license to an applicant who:

- (1) has knowingly made a false statement of material fact to the commission;
- (2) is found by the commission to lack the necessary financial stability or responsibility for licensure;
- (3) if an individual, is less than twenty-one (21) years of age on the date the application is received by the commission;
- (4) is on the most recent tax warrant list provided to the commission by the department of state revenue;
- (5) if an individual, has been convicted of or entered a plea of guilty or nolo contendere to a felony in the ten (10) years preceding the date of license application, unless the commission determines that:
 - (A) the individual has been pardoned or the individual's civil rights have been restored;
 - (B) after the conviction or entry of the plea, the individual has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the commission; or
 - (C) the individual has terminated a relationship with a person whose actions directly contributed to the conviction or entry of the plea;
- (6) if an individual, has been convicted of or entered a plea of guilty or nolo contendere to a violation of a gambling statute in any jurisdiction; or
- (7) fails to provide all materials requested by the commission.

However, the commission may determine that a waiver is warranted under the circumstances for an individual described in subdivision (6).

Sec. 9. Credit and security investigation information submitted in connection with an application for a license under this article is confidential and may not be disclosed except for official purposes under this article or under a judicial order.

Sec. 10. A license issued under this article may not be transferred without prior written approval of the commission.

Chapter 3. Powers and Duties of the Commission

Sec. 1. The commission has the following powers and duties to administer, regulate, and enforce gambling operations:

- (1) All powers and duties specified by this article.
- (2) All powers necessary and proper to fully and effectively execute and enforce this article, including the power to do the following:
 - (A) Supervise and exercise jurisdiction over the following:
 - (i) Electronic gaming device gambling operations within

establishments over which the commission has jurisdiction under this article.

(ii) Individuals in establishments over which the commission has jurisdiction under this article.

(B) Investigate and determine the eligibility of applicants for licenses and reinvestigate licensees.

(C) Take appropriate administrative enforcement or disciplinary action against a licensee.

(D) Investigate alleged violations of this article.

(E) Establish fees under IC 7.1-7-6 for licenses issued under this article.

(F) Conduct hearings.

(G) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of relevant documents.

(H) Administer oaths and affirmations to the witnesses and take depositions.

(I) Revoke, suspend, or renew licenses issued under this article.

(J) Hire employees to gather information, conduct investigations, and carry out other tasks under this article.

Sec. 2. The commission shall adopt rules under IC 4-22-2 concerning the following:

(1) Administering this article.

(2) Establishing the conditions under which gambling operations may be conducted under this article.

(3) Preventing practices detrimental to the public interest and promoting the best interests of electronic gaming device gambling.

(4) Imposing penalties for noncriminal violations of this article.

(5) Protecting or enhancing the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

(6) Authorizing electronic gaming devices that are approved for gambling operations under this article.

(7) Establishing the method and procedure for the validation and payment of a winning ticket.

(8) Establishing other qualifications and procedures for granting supplier and establishment licenses under this article.

Sec. 3. The commission may employ or contract for additional investigators to oversee the gambling operations under this article.

Sec. 4. The commission shall require that a licensee's records concerning gambling operations must be maintained in the manner and for the time prescribed by the commission.

Sec. 5. (a) Except as provided in subsection (c), the commission may do any combination of the following to a licensee that violates this article:

(1) Suspend, revoke, or restrict the license of the licensee.

(2) Impose a civil penalty set by the commission against a licensee for each violation of this article.

(b) If a licensee holding an establishment license under IC 7.1-7-5 no longer holds a permit issued by the commission as required under IC 7.1-7-5-2, the commission shall revoke the establishment license.

(c) A license issued under this article is automatically revoked if the commission determines that a licensee has offered, installed, serviced, maintained, possessed, or otherwise made available to the public an electronic gaming device that is not licensed by the commission.

(d) A person whose license is revoked under subsection (c) may not be licensed under this article for three (3) years after the revocation.

Sec. 6. The state police department shall assist the commission in conducting background investigations of applicants. The commission shall reimburse the state police department for the costs incurred as a result of the assistance. The commission shall make the payment from fees collected from applicants.

Chapter 4. Supplier's License

Sec. 1. A person must possess a supplier's license to:

- (1) own more than twenty (20) electronic gaming devices; or
- (2) distribute, sell, or lease electronic gaming devices or associated equipment to a person holding an establishment license issued under this article.

Sec. 2. To qualify for a supplier's license, an applicant must:

- (1) prove, using tax records and bills of sale, that the applicant has been doing business in Indiana for at least two (2) years before the date of the application; and
- (2) maintain a place of business located in Indiana, including at least a warehouse and service facility.

Sec. 3. (a) For each supplier's license that is issued by the commission, the commission shall create and maintain a list of the following:

- (1) The name of the individual who signed the application for the license.
- (2) The name, address, and telephone number of the person holding the supplier's license.
- (3) The number of electronic gaming devices owned by the supplier.
- (4) The serial number of each electronic gaming device owned by the supplier.

(b) The lists described in subsection (a) must be made available for public inspection in the offices of the commission.

Sec. 4. A supplier may not own, manage, or control an establishment licensed under IC 7.1-7-5.

Sec. 5. A supplier may not distribute an electronic gaming device in Indiana unless the device is approved by the commission under this article.

1 **Sec. 6.** A supplier may not distribute an electronic gaming
 2 device to an establishment unless the establishment is licensed
 3 under IC 7.1-7-5.

4 **Sec. 7. (a)** A supplier's license issued under this chapter expires
 5 one (1) year after the date of issuance.

6 **(b)** A supplier's license issued under this chapter may be
 7 renewed for a fee and in a manner determined by the commission.

8 **Chapter 5. Establishment License**

9 **Sec. 1.** An establishment license issued under this chapter
 10 entitles an establishment described in section 2 of this chapter to
 11 have gambling operations on the premises of the establishment.

12 **Sec. 2.** To qualify for an establishment license, an establishment
 13 must be licensed to sell alcoholic beverages, and the applicant must
 14 hold:

- 15 (1) a beer retailer's permit under IC 7.1-3-4;
- 16 (2) a liquor retailer's permit under IC 7.1-3-9;
- 17 (3) a wine retailer's permit under IC 7.1-3-14;
- 18 (4) a horse track permit under IC 7.1-3-17.7 that covers the
- 19 establishment; or
- 20 (5) a club, restaurant, or hotel permit under IC 7.1-3-20.

21 **Sec. 3. (a)** For each establishment license that is issued by the
 22 commission, the commission shall create and maintain a list of the
 23 following:

- 24 (1) The name of the individual who signed the application for
- 25 the license.
- 26 (2) The name, address, and telephone number of the person
- 27 holding the license.
- 28 (3) The number of electronic gaming devices located at the
- 29 establishment.
- 30 (4) The serial number of each electronic gaming device
- 31 located at the establishment.
- 32 (5) The sticker numbers required under section 4(c) of this
- 33 chapter.

34 **(b)** The lists described in subsection (a) must be available for
 35 public inspection in the offices of the commission.

36 **Sec. 4. (a)** An establishment license issued under this chapter
 37 authorizes an establishment to have the following number of
 38 electronic gaming devices placed in the establishment:

- 39 (1) Five (5) machines for an establishment that is licensed for
- 40 the on-premises consumption of alcoholic beverages.
- 41 (2) Ten (10) machines for a club (as defined in IC 7.1-1-3-10)
- 42 or a fraternal club (as defined in IC 7.1-1-3-17), with an
- 43 additional machine per one hundred (100) members and a
- 44 maximum of twenty (20) machines per licensed premises.
- 45 (3) Twenty (20) machines for an establishment that holds a
- 46 horse track permit under IC 7.1-3-17.7.

47 **(b)** An establishment must pay an annual fee established under
 48 IC 7.1-7-6 for each electronic gaming device located on the
 49 premises of the establishment.

50 **(c)** The commission shall annually issue a sticker with a number

for each licensed electronic gaming device. The establishment must place the sticker on each licensed electronic gaming device in a manner determined by the commission.

(d) A person holding an establishment license may not own more than the lesser of:

(1) the number of machines authorized to be placed in the person's establishment under subsection (a); or

(2) twenty (20) machines.

Sec. 5. (a) An establishment license issued under this chapter must be conspicuously displayed in the establishment.

(b) Gambling operations may not take place unless the establishment license is conspicuously displayed in the licensed establishment as required by subsection (a).

Sec. 6. (a) An establishment license issued under this chapter expires one (1) year after the date of issuance.

(b) An establishment license may be renewed for a fee and in the manner determined by the commission.

Chapter 6. Fees

Sec. 1. The commission shall adopt rules under IC 4-22-2 to establish fees for licenses issued under this article. The fees may not exceed the following:

(1) Five thousand dollars (\$5,000) annually for each supplier's license.

(2) One thousand dollars (\$1,000) annually for an establishment license if the establishment has one (1) electronic gaming device. The licensee shall pay an additional one thousand dollars (\$1,000) annually for each additional electronic gaming device that the licensee will operate in the establishment.

Sec. 2. Fees collected under this chapter must be deposited in the electronic gaming fund established by IC 7.1-7-9-2.

Sec. 3. A local governmental authority may not charge an additional fee or charge for the licensing of suppliers or establishments under this article.

Chapter 7. Adjusted Gross Receipts Tax

Sec. 1. (a) A tax is imposed on the adjusted gross receipts received from gambling operations authorized under this article at the rate of ten percent (10%) of the amount of the adjusted gross receipts.

(b) The licensee shall remit the tax imposed by this chapter to the commission before the close of the business day following the day the wagers are made.

(c) The commission may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(e)).

(d) If the commission requires taxes to be remitted under this chapter through electronic funds transfer, the commission may allow the licensed owner to file a monthly report to reconcile the amounts remitted to the commission.

Sec. 2. The commission shall deposit tax revenue collected under this chapter in the electronic gaming fund established under IC

1 **7.1-7-9-2.**

2 **Chapter 8. Operation of Electronic Gaming Devices**

3 **Sec. 1. Electronic gaming devices and equipment associated with**
4 **electronic gaming devices must be maintained and serviced in the**
5 **manner and condition required by the commission.**

6 **Sec. 2. (a) An establishment licensee is responsible for keeping**
7 **a written service log in each of the electronic gaming devices. The**
8 **log must be located in the main cabinet access area of the device's**
9 **terminal.**

10 **(b) An individual, including an employee or agent of the**
11 **commission, who gains entry into any internal space of an**
12 **electronic gaming device shall sign the log and indicate the time,**
13 **date, and purpose of entry, the electronic and mechanical meter**
14 **readings, and the parts of the terminal inspected or repaired.**

15 **(c) Service log forms must be obtained from the commission and**
16 **be retained by an establishment during the time that the electronic**
17 **gaming device is being used for gambling operations and for at**
18 **least one (1) year after the electronic gaming device is removed**
19 **from service.**

20 **(d) Service logs created under this section must be available for**
21 **immediate inspection by an employee or agent of the commission**
22 **upon request.**

23 **Sec. 3. The commission may inspect an electronic gaming device**
24 **terminal before the device or terminal is placed in operation to**
25 **ensure that the electronic gaming device is in compliance with this**
26 **article and the rules of the commission.**

27 **Sec. 4. An electronic gaming device must prominently display a**
28 **table listing the available prizes and the odds of winning.**

29 **Sec. 5. An electronic gaming device must dispense to each**
30 **winning player a ticket indicating the amount won and containing:**

- 31 **(1) information on how to redeem the ticket for cash; and**
32 **(2) a notice that the ticket must be redeemed within the time**
33 **set forth in section 6(c) of this chapter.**

34 **Sec. 6. (a) The holder of an establishment license shall**
35 **immediately pay a winning player the amount won on an electronic**
36 **gaming device upon presentation of a winning ticket by the player.**

37 **(b) An establishment may not pay a player for a winning ticket**
38 **from another establishment.**

39 **(c) A ticket that is not redeemed within seventy-two (72) hours**
40 **after the ticket is dispensed is void.**

41 **Sec. 7. (a) A licensee shall maintain records of the electronic**
42 **gaming devices the licensee owns. The records shall be made**
43 **available to the commission upon request and must be sufficient to**
44 **ensure that the electronic gaming device is operated in compliance**
45 **with this article and the rules of the commission.**

46 **(b) The records required under this section must be held by the**
47 **licensee during the time that each electronic gaming device is**
48 **located in Indiana and for at least one (1) year after the device is**
49 **no longer being used for gambling operations.**

50 **Sec. 8. (a) An electronic gaming device may not be operated in**

1 a location in an establishment where a person less than twenty-one
2 (21) years of age has access to the device.

3 (b) An establishment may not allow a person less than
4 twenty-one (21) years of age to wager on an electronic gaming
5 device.

6 Sec. 9. (a) Except as provided in subsection (b), an establishment
7 licensee may not advertise or promote in any way the presence of
8 electronic gaming devices in an establishment.

9 (b) An establishment licensee may advertise electronic gaming
10 devices within the establishment if:

11 (1) the advertising cannot be viewed from outside the
12 establishment; and

13 (2) the licensee complies with the rules of the commission
14 concerning advertising.

15 Sec. 10. An establishment licensee may not include within the
16 name of the business the term "casino", "electronic gaming
17 devices", or any related term that may be identified with casino
18 gambling.

19 Sec. 11. The minimum payout percentage required of electronic
20 gaming devices authorized under this article is eighty percent
21 (80%).

22 Sec. 12. The minimum amount for a wager in an electronic
23 gaming device under this article is five cents (\$0.05).

24 Sec. 13. The maximum amount for a wager in an electronic
25 gaming device under this article is six dollars and forty cents
26 (\$6.40).

27 Sec. 14. The maximum prize on a game played on an electronic
28 gaming device under this article is one thousand five hundred
29 dollars (\$1,500).

30 Chapter 9. Electronic Gaming Fund and Disbursement of Fund 31 Money

32 Sec. 1. As used in this chapter, "fund" refers to the electronic
33 gaming fund established by section 2 of this chapter.

34 Sec. 2. The electronic gaming fund is established. The fund shall
35 be administered by the commission.

36 Sec. 3. (a) Expenses of administering the fund:

37 (1) may not exceed five percent (5%) of the total amount
38 collected in any fiscal year; and

39 (2) shall be paid from money in the fund.

40 (b) Money in the fund is continually appropriated to the
41 commission to carry out the purposes of this article.

42 Sec. 4. The fund consists of licensing fees deposited into the fund
43 under IC 7.1-7-6-2.

44 Sec. 5. The treasurer of state shall invest the money in the fund
45 not currently needed to meet the obligations of the fund in the same
46 manner as other public funds may be invested. Interest that
47 accrues from these investments shall be deposited in the fund.

48 Sec. 6. The commission shall distribute annually, at the end of
49 a state fiscal year, after administrative expenses are paid under
50 section 3 of this chapter, the following:

(1) Twenty percent (20%) of the money in the fund at the end of the state fiscal year shall be disbursed to the counties based on the population of the counties according to the most recent federal special or decennial census, special tabulation, or corrected population count effective under IC 1-1-3.5.

(2) Twenty percent (20%) of the money in the fund at the end of the state fiscal year shall be disbursed to cities and towns based on the population of the cities and towns according to the most recent federal special or decennial census, special tabulation, or corrected population count under IC 1-1-3.5.

(3) Twenty percent (20%) of the money in the fund at the end of the state fiscal year shall be disbursed to the state police for the state police laboratory.

(4) Twenty percent (20%) of the money in the fund at the end of the state fiscal year shall be disbursed to the state excise police for operating expenses. This money shall be used to replace general fund dollars appropriated for the state excise police.

(5) Ten percent (10%) of the money in the fund at the end of the state fiscal year shall be disbursed to the local road and street account established under IC 8-14-2-4 and is to be used exclusively for bridges.

(6) Five percent (5%) of the money in the fund at the end of the state fiscal year shall be disbursed to the natural resources reclamation division fund established by IC 14-34-14-2.

(7) Five percent (5%) of the money in the fund at the end of the state fiscal year shall be disbursed to the oil and gas environmental fund established by IC 14-37-10-2.

Sec. 7. Money distributed under this chapter is annually appropriated to the appropriate agencies.

Sec. 8. With respect to a reimbursement that the commission is required to pay to the state or to an agency of the state, the commission may enter into an agreement with the state or the state agency under which the commission pays to the state or the state agency an amount reasonably anticipated to cover reimbursable expenses before these expenses are incurred.

Chapter 10. Crimes and Penalties

Sec. 1. A person who knowingly or intentionally tampers with an electronic gaming device with intent to interfere with the proper operation of the electronic gaming device commits electronic gaming device tampering, a Class D felony.

Sec. 2. A person who knowingly or intentionally, with intent to manipulate the outcome, payoff, or operation of an electronic gaming device, manipulates or attempts to manipulate the outcome, payoff, or operation of an electronic gaming device commits electronic gaming device manipulation, a Class D felony.

Sec. 3. (a) Except as provided in subsection (b), a person who knowingly or intentionally purchases, sells, leases, or places in an establishment for use by the public a type of machine that is

1 authorized by the commission for play but that is not licensed
2 under this article commits unlicensed electronic gaming device
3 operation, a Class D felony.

4 (b) Subsection (a) does not apply to a coin operated machine
5 used for amusement only."

6 Page 125, between lines 14 and 15, begin a new paragraph
7 and insert:

8 "SECTION 126. IC 35-45-5-11 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2002]: **Sec. 11. This chapter does not apply**
11 **to gambling on electronic gaming devices licensed for use in an**
12 **establishment licensed under IC 7.1-7."**

13 Renumber all SECTIONS consecutively.

(Reference is to EHB 1004 as printed February 22, 2002.)

Senator WATERMAN